

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION NO.20521 OF 1997

DATED: 28TH NOVEMBER, 2006.

Between :

1. Kamarouthu Janikamma and
- 2 Others. .. Petitioners

And

1. The District Collector, East Godavari
District at Kakinada and
Another. .. Respondents

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WRIT PETITION NO.20521 OF 1997

ORDER :

This writ petition is filed seeking a Mandamus directing the respondents to make a reference to the Civil Court under Section 18 of the Land Acquisition Act, 1894 for determination of the compensation in respect of the lands of the petitioners acquired under Award No.3 of 1985, dated 18-6-1985. It is not in dispute that the lands belonging to the petitioners were acquired vide Notification dated 21-5-1984 published under Section 4 (1) of the Land Acquisition Act, 1894 (for short, 'the Act'). The same was followed by a declaration under Section 6 of the Act dated 7-7-1984. It is also not in dispute that the petitioners were served with a notice in the award enquiry. However the petitioners pleaded that notice of the award said to have been passed on 18-6-1985 was not served on them but a copy of the award was furnished by the Land Acquisition Officer only on 15-4-1986 on a request made by them. Thereafter, on 3-6-1986 i.e, within two months from the date of receipt of a copy of the award, the petitioners made an application under Section 18 of the Land Acquisition Act seeking reference to the Civil Court. Aggrieved by the inaction on the part of the respondents in considering the said application, this writ petition is filed.

Though no counter-affidavit is filed by the respondents, the covering letter dated 15-4-1986 addressed by the Sub-Collector, Rajahmundry Cum Land Acquisition Officer while furnishing a copy of award to the Counsel for the petitioners shows that the petitioners

were not served with the notice of award as required under Section 12 of the Act.

In identical circumstances a Full Bench of this Court in SPL. DY. COLLECTOR, SINGARENI COLLIERIES CO. LTD. v. DASARI RAMULU^[1] held that service of notice can safely be considered to mean tender of the notice to the claimant and not his mere knowledge acquired through various means.

In the light of the ratio laid down by the Full Bench and having regard to the fact that no notice of award was served on the petitioners, the application dated 3-6-1986 made by the petitioner seeking reference under Section 18 of the Act is well within the limitation prescribed under the Act.

Accordingly, the Writ Petition is disposed of with a direction to the respondents to entertain the application of the petitioners dated 3-6-1986 and to make a reference under Section 18 of the Act if the application is otherwise in order. No costs.

G. ROHINI, J.

Dt. 28-11-2006
gbs

[\[1\]](#) 2000 (2) ALD 418 (FB)